

**The González Law Firm, P.C.**

One Westlake Plaza, Suite 100  
1705 South Capital of Texas Highway  
Austin TX 78746  
Telephone (512) 330-9696  
Facsimile (512) 330-9898

---

**RECEIVED**

Richard A. Muscat  
*Senior Attorney*

November 8, 1999

NOV - 9 1999

**FCC MAIL ROOM**

Ms. Magalie Roman Salas  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, TW-A325, S.W.  
Washington, D.C. 20554

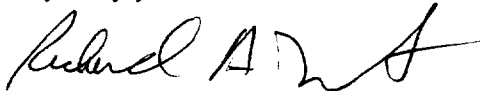
RE: CC Docket No. 94-102, Ex Parte Presentation Comments

Dear Ms. Salas:

Attached are an original and eleven copies of Ex Parte Presentation Comments on behalf of the Greater Harris County 9-1-1 Emergency Network, the Texas Commission on State Emergency Communications, the National Association of State Nine-One-One Administrators, and the National Emergency Number Association. Please file and distribute the original and ten copies in accordance with the appropriate procedures. Please also file stamp the extra copy and return it to me in the enclosed self-addressed stamped envelope. A copy of this filing was filed electronically on November 8, 1999.

Your assistance in this matter is much appreciated.

Very truly yours,



Richard A. Muscat

No. of Copies rec'd 12  
List ABCDE

**The González Law Firm, P.C.**

One Westlake Plaza, Suite 100  
1705 South Capital of Texas Highway  
Austin TX 78746  
Telephone (512) 330-9696  
Facsimile (512) 330-9898

**Richard A. Muscat**  
*Senior Attorney*

November 8, 1999

**RECEIVED**

**NOV - 9 1999**

Ms. Magalie Roman Salas  
Office of the Commission Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, TW-A325, S.W.  
Washington, D.C. 20554

**FCC MAIL ROOM**

RE: CC Docket No. 94-102, Ex Parte Comment, Issues Related to the November 18<sup>th</sup> FCC Open Meeting

Dear Ms. Salas:

The Greater Harris County 9-1-1 Emergency Network, the Texas Commission on State Emergency Communications, the National Association of State Nine-One-One Administrators, and the National Emergency Number Association submit this ex parte letter on the items that the Commission may consider at November 18<sup>th</sup> open meeting related to the "prerequisite" for cost recovery and the perceived debate regarding the use of Non-Call Associated Signaling ("NCAS") vs. Call Associated Signaling ("CAS") for the delivery for wireless E9-1-1 Phase I service.

***Cost Recovery***

The issue is a double-edged sword. On the one hand, removal of the "cost recovery" language may result in states' legislatures failing to enact necessary funding mechanisms by removing the incentive for the wireless carriers to work proactively with public safety to support such mechanisms. Removal of the cost recovery language may also be counter-productive to the state and local governments that have already adopted cost recovery mechanisms. Furthermore, adding additional uncertainty on the cost recovery issue at this point in time may delay current ongoing implementations of wireless E9-1-1 Phase I service, no matter how well intended. On the other hand, viewing the cost recovery mechanism as a *prerequisite* has given some wireless carriers an additional tool for delaying the implementation of Phase I and Phase II even where a cost recovery mechanism has been established.

We urge the Federal Communications Commission (FCC) to retain the cost recovery provision in any revision of the wireless E911 rules. Because of the difficulties in the issue outlined above, we believe that the cost recovery language should be clarified. Such clarification might address those issues leading you to consider removing the language. In that regard we offer the following:

“The cost recovery requirement shall remain a part of the wireless E911 rules. The determination of whether a PSAP/system has adequate cost recovery, however, is solely the determination of the PSAP/system requesting Phase I and/or Phase II service. For purposes of determining whether adequate cost recovery is available, the presumption is that the PSAP has the resources to compensate the wireless carrier if the PSAP has requested Phase I and/or Phase II service.”

It is critical for both wireless E9-1-1 Phase I and Phase II services that Public Safety Answering Points (“PSAPs”) have sufficient state and local funding to ensure these services can be accepted and used appropriately by PSAPs in emergency situations. We continue to support the Commission’s conclusion in the First Report and Order in CC Docket No. 94-102 that “local and state governments have pursued innovative and diverse means for the funding of wireline E9-1-1 services, and that it is reasonable to anticipate that these governments will follow a similar course with regard to wireless E9-1-1.” We urge the Commission to continue to give local and state authorities the proper deference on funding 9-1-1 emergency service and to expect appropriate and reasonable action by these local and state authorities to better protect their citizens.

We recognize as demonstrated by several filings to the Commission (including, the State of California 9-1-1 Program Manager’s request for a declaratory ruling and the request for declaratory ruling by the Washington Attorney General) and ex parte letters and discussions, that maintaining the “cost recovery” requirement in the Commission’s rules as a “prerequisite” for the delivery of the services may be creating unnecessary tension and delaying wireless carriers in moving forward cooperatively with PSAPs. Consequently, the cost recovery language must be clarified. For instance, even though the Texas wireless 9-1-1 legislation provides for recovery by wireless carriers of all “reasonable” costs for the delivery of wireless E9-1-1 service, certain carriers have alleged that the Texas Legislature’s inclusion of the term “reasonable” or its method of disbursement of the funds via local governments and then to wireless carriers for “reasonable costs” is not a sufficient cost recovery mechanism under Commission rules.

Carriers and public safety authorities must continue to work together on the issue of compensation for network and equipment upgrades which, if not implemented, will cause E9-1-1 systems literally to become obsolete or dysfunctional as emergency calls from wireless phones continue to increase. At the same time, this task is too important to be stalled over disputes as to whether the funds in a public mechanism will be adequate for cost recovery or whether the distribution methods for cost reimbursement are ideal or the most efficient. We have heard all these complaints and more. They have risen to the point where disputes over how to implement cost recovery may in some areas be obscuring and delaying the realization of the important purposes of 9-1-1 network and 9-1-1 equipment enhancements. These delays in the cooperative implementation of wireless Phase I E9-1-1 services are resulting in adverse consequences for wireless customers seeking emergency assistance via the universal emergency number 9-1-1.<sup>1</sup>

---

<sup>1</sup> In Illinois, and perhaps in other states, some wireless carriers have entered into agreements with a private public safety answering service in cases where the public entity -- the PSAP -- has been unable or unwilling to request or receive and use the ANI and ALI data elements of wireless E9-1-1 service. As we understand such arrangements, wireless carriers deliver 9-1-1 calls to a private answering service which then uses a 7-digit forwarding number to

If the Commission votes to delete "cost recovery" as a prerequisite, that action should not be taken as an intent to preclude or discourage wireless carriers and public safety authorities from continuing to seek agreement -- or from implementing agreements already legislated or negotiated -- for public funding of the costs incurred by both sides in carrying out Commission rules. Where agreement cannot be reached, each side will be free to secure separately the funds necessary to meet its obligations. For carriers, this may mean raising base subscriber rates. However, that should not include placing separately identified 9-1-1 charges on customer bills. Such separate charges could complicate and inhibit the ability of state and local governments to adopt, implement and maintain state and local government imposed funding mechanisms, to say nothing of customer confusion. For PSAPs, separate funding may mean additional subscriber surcharges, pursuant to local or state authority. But these separate state and local funding mechanisms are consistent with the reality that most "funding mechanisms" thus far have chosen to place the burden of network and equipment upgrades on the end-user beneficiary, the subscriber. If the Commission decides to remove the cost recovery requirement, the Commission should state as clearly and as strongly as it can that removal of the cost recovery prerequisite is intended to further wireless carriers and local and state governments using their best cooperative efforts in funding the seamless public 9-1-1 systems that we believe Congress sees as essential for public safety.

#### ***Debate on Phase I Technology Issues: the NCAS vs. CAS filings***

Several ex parte filings and meetings have raised a technology choice issue as to the implementation of wireless E9-1-1 Phase I service. These filings have been referred to by some as the NCAS vs. CAS debate. The Commission should not get lost in this perceived technology debate. The Commission should strongly direct the parties to ensure that wireless Phase I service is provided seamlessly to PSAPs regardless of the technology involved. PSAPs must be able to query and receive on their call-taking screens the ALI information that they need in the ALI format to which they are accustomed. These must be fundamental objectives in any consideration of Phase I technology choice issues.

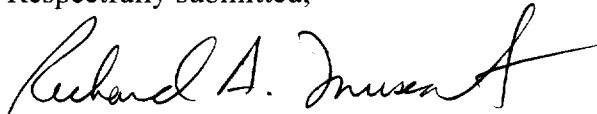
---

transmit the call to a PSAP. We do not know to what extent these forwarded calls are "selectively routed" to reach a PSAP proximate to the origin of the call. If they are not, then further forwarding from one PSAP to another -- and further delay in response -- may occur. Moreover, the number of wireless 9-1-1 calls forwarded to 7-digit PSAP entry numbers may swamp the lines set aside for that purpose and force the addition of more lines. PSAP expense could also be increased by the need to add more staff to handle the increased 7-digit call load. This is contrary to the spirit, if not the letter, of Commission rules. Moreover, it may contravene congressional intent in the recent enactment of S.800, which makes 9-1-1 the universal emergency telephone number for wireline and wireless services. This is not what the Commission had in mind when we sought to ensure that any person who attempts to place a 9-1-1 call through the facilities of a covered carrier will not be subject to any validation or similar carrier-initiated procedures that could result in a delay in the delivery of a 9-1-1 call to a PSAP. (First R&O, ¶33) Nor are these private services what Congress had in mind when they ordered the Commission, at Section 3(b) of the Wireless Communications and Public Safety Act of 1999, to "encourage and support efforts by States to deploy comprehensive end-to-end emergency communications infrastructure and programs . . ." and to "consult and cooperate with State and local officials responsible for emergency services and public safety . . ."

To date, most of the filings and discussions have debated differences between a pure NCAS and a pure CAS solution.<sup>2</sup> There are also “hybrid” solutions, such as the one being currently offered by SBC, that is neither pure NCAS nor pure CAS.<sup>3</sup> The Commission should be uncomfortable with permitting either wireless carriers or PSAPs to simply dictate the Phase I technology solution (e.g., NCAS, CAS, or hybrid) without careful consideration of individual circumstances. This caution is needed because potential interoperability issues, 9-1-1 Selective Routing tandem translation and functionality issues, or PSAP ALI query or ALI screen format protocols may strongly suggest that in particular individual situations either party’s first preference may not be ideal or appropriate.<sup>4</sup> Rather than the FCC giving either the PSAPs or the wireless carriers the unbridled discretion without a consideration of individual circumstances, the FCC should require the prudent approach of requiring interoperable, standards-based wireless E9-1-1 Phase I solutions. The PSAP’s right to maintain control of their ALI queries and ALI screen formats should not be disturbed. Reasons for rejecting a PSAPs first preference should be limited to true technical problems, if any, that the PSAP’s first preference would impose on the wireless carriers.

We sincerely appreciate the Commission’s and the Wireless Bureau’s commitment to wireless E9-1-1 issues. Thank you for your attention to this matter.

Respectfully submitted,



Richard A. Muscat

On behalf of the above-referenced Parties

cc: FCC Commissioners

c:\my documents\fcc\fcc 94-102, ex parte\1.8.99, cost recovery, ncas vs. cas, unredlined.doc

---

<sup>2</sup> In a pure NCAS solution, the PSAP uses the Pseudo-ANI to query for the MDN. In a pure CAS solution, the PSAP receives both Pseudo-ANI and the MDN through the 9-1-1 network.

<sup>3</sup> In the SBC “hybrid,” the PSAP uses the MDN to query for the Pseudo-ANI.

<sup>4</sup> A pure CAS solution can only be used where a PSAP can received all twenty digits. An NCAS solution may potentially send confusing information to a PSAP that is set up to receive a hybrid solution or, vise versa, a hybrid solution may potentially send confusing information to a PSAP that is set up to receive a NCAS solution.